

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

<p>Bernadine Wallin,  Plaintiff,  v.  Nationwide Insurance Company of America, an Ohio corporation,  Defendants.</p>	<p>) Case No. 18CV04025 ) ) <b>COMPLAINT</b> ) ) (Breach of Insurance Contract) ) ) Jury Trial Requested ) ) Not Subject to Mandatory Arbitration ) ) Prayer Total: \$209,424.50 ) ORS 21.160(1)(c)</p>
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Plaintiff alleges:

**FIRST CLAIM FOR RELIEF**

**(Breach of Contract)**

1.

At all relevant times, Plaintiff Bernadine Wallin (hereinafter "Plaintiff") was an individual residing in Gresham, Oregon.

2.

At all relevant times, Defendant Nationwide Insurance Company of America (hereinafter "Defendant") was an Ohio organization authorized to issue insurance policies in Oregon.

3.

On or about October 1, 2016, plaintiff and defendant entered into a written agreement (hereinafter "the contract") whereby plaintiff purchased homeowner's insurance from defendant.

1 - Complaint

**RICHARD RIZK**

0434 SW Iowa Street • Portland, OR 97239

EMAIL: [rich@rizklaw.com](mailto:rich@rizklaw.com) • TEL: (503) 245-5677 • FAX: (503) 427-1919

1 The contract upon which this action is based, (homeowners policy No. HON 0015764930-7),  
2 was made and was to be performed in the County of Multnomah, Oregon.

3 4.

4 In exchange for Plaintiff's premium payment, Defendant expressly promised to  
5 indemnify Plaintiff for certain losses, including losses caused by fire for a home located at 735  
6 SE 4th St., Gresham, Oregon (hereinafter "Plaintiff's home"). The contract is attached as exhibit  
7 1.

8 5.

9 Under ORS 746.230(e) and implicit in the contract, Defendant has a duty to affirm or  
10 deny coverage of claims within a reasonable time after completed proof of loss statements have  
11 been submitted. Under ORS 746.230(f) and implicit in the contract, Defendant has a duty to, in  
12 good faith, promptly and equitably settle claims in which liability has become reasonably clear.

13 6.

14 At all relevant times, Plaintiff performed all terms and conditions of the contract.

15 7.

16 On or about March 27, 2017, while the contract was in force, a fire (hereinafter "the  
17 fire") caused physical damage to Plaintiff's real property, viz., her home, to her economic  
18 damage in the sum of no less than \$190,797.96.

19 8.

20 The fire caused physical damage to personal property, to her economic damage in the  
21 sum of no less than \$18,626.54.

22 9.

23 The losses suffered by plaintiff fall within the coverage of defendant's policies. Pursuant  
24 to the terms of the policy, plaintiff sought payment from Defendant damages incurred in the fire.

25 2 - Complaint

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1 Plaintiff timely provided proof of loss to Defendant, making Defendant's liability for the March  
2 27, 2017, loss reasonably clear.

3 10.

4 More than six months have accrued since Defendant was given proof of loss and since  
5 liability became reasonably clear. Defendant has failed to affirm or deny coverage of Plaintiff's  
6 claim for this loss within a reasonable time. As such, Defendant breached its obligations under  
7 the contract and ORS 746.230(e). Defendant has also breached its obligations under the contract  
8 and ORS 746.230(f) by failing to, in good faith, promptly and equitably settle the claim for the  
9 March 27, 2017, loss after liability became reasonably clear.

10 11.

11 Under the Contract, Defendant is obligated to pay Plaintiff all amounts accrued and  
12 owed, including prejudgment interest.

13 12.

14 As a result of Defendant's breaches, Plaintiff has been damaged in an amount to be  
15 proven at trial of no less than \$209,424.50.

16 13.

17 As a result of Defendant's failure to provide coverage or tender payment for the loss  
18 within 6 months, Plaintiff is entitled to her attorney fees pursuant to ORS 742.061.

## 19 **SECOND CLAIM FOR RELIEF**

### 20 **(Implied Covenant of Good Faith and Fair Dealings)**

21 14.

22 Plaintiff re-alleges paragraphs 1 through 13 above.

23 15.

24 Implicit within the contract was a promise of good faith and fair dealings.

25 3 - Complaint

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16.

Defendant breached the implied promise of good faith and fair dealings by failing to properly investigate the loss, failing to adjust the claim in a timely manner, and failing to tender payment to Plaintiff within a reasonable time after receiving proof of loss for the March 27, 2017, fire.

17.

It was foreseeable to Defendant that if it breached its obligations under the contract in the ways outlined in Paragraph 16, Plaintiff would suffer damages.

18.

As a result of the breach of contract by Defendant, Plaintiff has suffered damages set forth in paragraph 7 and paragraph 8.

**WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:

- (1) \$190,797.96 in damages to real property;
- (2) \$18,626.54 in damages to personal property;
- (3) For prejudgment interest at the legal rate from March 27, 2017;
- (4) Plaintiff's attorney fees, costs and disbursements incurred herein; and
- (5) For such other relief as the court deems just and proper.

**Dated:** February 2, 2017.

By: s/ Richard Rizk  
Richard Rizk, OSB No. 901105  
Attorney for Plaintiff

4 - Complaint

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EMAIL: [rich@rizklaw.com](mailto:rich@rizklaw.com) • TEL: (503) 245-5677 • FAX: (503) 427-1919

**AFFIDAVIT OF SERVICE**

State of Oregon

County of Multnomah

Circuit Court

Case Number: 18CV04025

Plaintiff:

**BERNADINE WALLIN**

vs.

Defendant:

**NATIONWIDE INSURANCE COMPANY OF AMERICA.**

Received by Free Lance Investigations & Process Serving to be served on **NATIONWIDE INSURANCE COMPANY OF AMERICA C/O CORPORATION SERVICE COMPANY, REGISTERED AGENT, 1127 BROADWAY STREET NE, SALEM, OR 97301.**


I, Scot Baughman, being duly sworn, depose and say that on the **15th day of February, 2018 at 1:40 pm, I:**

served **NATIONWIDE INSURANCE COMPANY OF AMERICA** by delivering the **SUMMONS AND COMPLAINT** to: **SHARON WALLS** as the **SERVICE OF PROCESS TECHNICIAN IN THE OFFICE OF THE REGISTERED AGENT** for **NATIONWIDE INSURANCE COMPANY OF AMERICA**, at the address of: **1127 BROADWAY STREET NE, SALEM, OR 97301**, and informed said person of the contents therein, in compliance with state statutes.

I am a competent person, 18 years of age or older and a resident of the State of Oregon or the state of service. I am not a party to nor an officer, director or employee of, nor attorney for any party, corporate or otherwise and I know that the person, firm or corporation served is the identical one named in the action.

Subscribed and Sworn to before me on the 15th day of February, 2018 by the affiant who is personally known to me.

  
NOTARY PUBLIC

  
**Scot Baughman**  
Process Server

**Free Lance Investigations & Process Serving**  
P. O. Box 1948  
Hillsboro, OR 97123  
(503) 201-1642

Our Job Serial Number: BAB-2018000153



OFFICIAL STAMP  
**BARBARA A BAUGHMAN**  
NOTARY PUBLIC - OREGON  
COMMISSION NO. 944466  
MY COMMISSION EXPIRES NOVEMBER 15, 2019

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

Bernadine Wallin,	)	
	)	
Plaintiff,	)	Case No. 18CV04025
	)	
v.	)	
	)	
Nationwide Insurance Company of America,	)	<b>SUMMONS</b>
an Ohio corporation,	)	
	)	
Defendants.	)	
	)	

**TO:** Nationwide Insurance Company of America  
c/o Corporation Service Company  
1127 Broadway Street NE  
Salem OR 97301

**IN THE NAME OF THE STATE OF OREGON**, a legal complaint has been filed against you and you must appear and defend against the complaint within 30 days from the date this Summons is served upon you. If you fail to appear and defend, the Plaintiff will apply to the Court for the relief demanded in the complaint.

**NOTICE TO DEFENDANT:**

**YOU MUST READ THESE PAPERS CAREFULLY!**

You must “appear” in this case or the other side will win automatically. To appear, you must file with the court a legal paper called a “motion” or “answer”. Your motion or answer must be in the proper form and must be given to the court clerk or the court administrator within 30 days along with the required filing fee and a “proof of service.” Your proof of service must



1 show that your answer or motion was served on the Plaintiff's attorney, or if the Plaintiff does  
2 not have an attorney, on the Plaintiff herself.

3 If you have any questions, you should see an attorney immediately! If you need help to  
4 find an attorney, you may call the Oregon State Bar and ask for the Lawyer Referral Service  
5 (503) 684-3763 or toll free from within Oregon 1-800-452-7636.

6 **DATED:** February 8, 2018.

7  
8 By: 

Alexander W. Pletch, OSB No. 174384  
0434 SW Iowa Street  
Portland, OR 97239  
Ph. (503) 245-5677 FAX (503) 427-1919  
Of Attorneys for Plaintiff  
[alex@rizklaw.com](mailto:alex@rizklaw.com)

12  
13 I certify that this is a true, exact and complete copy of the original Summons and  
14 Complaint. The address at which papers in this action may be served upon the Plaintiff and her  
15 attorney is: Alexander W. Pletch, 0434 SW Iowa Street, Portland, OR 97239.

16 **DATED:** February \_\_\_\_, 2018.

17  
18 By: \_\_\_\_\_

Alexander W. Pletch, OSB No. 174384  
0434 SW Iowa Street  
Portland, OR 97239  
Ph. (503) 245-5677 FAX (503) 427-1919  
Of Attorneys for Plaintiff  
[alex@rizklaw.com](mailto:alex@rizklaw.com)

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23  
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25 Page 2 - Summons

**RIZKLAW, P.C.**

0434 SW Iowa Street • Portland, OR 97239

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